

MINUTES
FOR THE MEETING OF THE
COMMISSION ON WATER RESOURCE MANAGEMENT

DATE: August 23, 2000
TIME: 9:00 am
PLACE: Tex Drive In
Honokaa, Hawaii

Chairperson Timothy E. Johns called the meeting of the Commission on Water Resource Management to order at 9:00 a.m.

The following were in attendance:

MEMBERS: Mr. Timothy Johns, Dr. Bruce Anderson, Mr. Robert Giraldo, Mr. Brian Nishida, Mr. Herbert Richards, Jr.

STAFF: Ms. Linnel Nishioka, Mr. Roy Hardy, Mr. Ed Sakoda, Ms. Faith Ching

COUNSEL: Edsel Yamada

OTHERS: James Nakatani, Brian Kau, Manabu Tagomori, Lawrence Balberde, Bob Rosehill, Dudley Kubo, Walker Sanders, Zack Gibson, Chris Rathbun, Kia Fronda, Algirdas Vebeliunas, Marjorie Ziegler, Pat Tummons

All written testimonies submitted at the meeting are filed in the Commission office and are available for review by interested parties. The items were not taken in the order posted on the agenda.

1. Minutes of the July 31, 2000 meeting

MOTION: (ANDERSON/GIRALD)
To approve the minutes.
UNANIMOUSLY APPROVED.

2. Old Business/Announcements by Deputy Director Linnel Nishioka

The August 22, 2000 meeting of the Hawaii Drought Council approved the Hawaii Drought Plan (HDP) draft. The HDP draft will be transmitted to the Governor early next week which will then be transmitted to Congress the first week of September.

7. ~~A&B Properties, Inc.~~ Hawaii Army National Guard, Application for a Stream Channel Alteration Permit (SCAP-OA-311), Removal of Lead Contaminated Soil, Pearl City, Oahu (TMK 9-6-4:15)

PRESENTATION OF SUBMITTAL: Mr. Edwin Sakoda

Mr. Sakoda made title corrections to the submittal to take off A&B Properties, Inc. and insert Hawaii Army National Guard.

Chairperson Johns asked for a motion to amend the agenda item to change it from A&B Properties, Inc. to Hawaii Army National Guard.

MOTION: (NISHIDA/ANDERSON)

To approve the agenda as amended.

UNANIMOUSLY APPROVED AS AMENDED.

RECOMMENDATIONS:

That the Commission approve a stream channel alteration permit for the removal of contaminated soil at Waiawa Stream (TMK 9-6-4:15) Pearl City, Oahu. The permit will be valid for two years subject to the Commission's standard conditions in Exhibit 5 and the following special condition:

“The applicant shall prepare a Best Management Practice Plan (BMPP) to minimize water pollution during construction activities. The BMPP shall be acceptable to the Department of Health and the applicant shall follow the Best Management Practices during the removal of the soils.”

MOTION: (ANDERSON/GIRALD)

To approve the submittal.

UNANIMOUSLY APPROVED.

8. Department of Land and Natural Resources, Land Division, Application for a Stream Channel Alteration Permit (SCAP-OA-315), Dredging for Navigation and Flood Conveyance, Ala Wai Canal, Oahu (TMK 2-3-34:, 35:, 36: and 2-7-36)

PRESENTATION OF SUBMITTAL: Mr. Edwin Sakoda

RECOMMENDATIONS:

That the Commission approve a stream channel alteration permit (SCAP-OA-315) for the dredging of the Ala Wai Canal (TMK 2-3-34: 35, & 36, 2-7-36:). The permit will be valid for two years subject to our standard conditions for stream channel alteration permits indicated in Exhibit 6.

Commissioner Anderson agreed that the dredging project will reduce flooding and enhance recreational use. He stated that he is skeptical that it will improve the water quality.

MOTION: (GIRALD/ANDERSON)

To approve the submittal.

UNANIMOUSLY APPROVED.

5. Mr. Algirdas J. Vebeliunas, After-the-Fact Applications for Stream Channel Alteration and Stream Diversion Works Permits, and Petition to Amend the Interim Instream Flow Standard (SCAP-HA-314), Stream Diversion for Agricultural Use Peleau Stream, Hamakua, Hawaii (TMK: 3-1-003:002)

PRESENTATION OF SUBMITTAL: Mr. Edwin Sakoda

AMENDED RECOMMENDATIONS:

That the Commission:

1. Find the applicant in violation of:
 - a. Hawaii Revised Statutes §174C-71 for not obtaining a stream channel alteration permit for the present diversion system.
 - b. Find the applicant in violation of Hawaii Revised Statutes §174C-93 for not obtaining a stream diversion works permit for the present diversion system.
 - c. Find the applicant in violation of Hawaii Administrative Rules §169-46 for installing a new diversion system without amending the interim instream flow standard.
2. Advise the applicant that future diversions or channel alterations by the applicant without the necessary Commission approvals may be considered a ‘willful violation’ of the Commission’s rules and may be subject to penalties under Hawaii Revised Statutes §174C-15.
3. Approve stream channel alteration and stream diversion works permits and petition to amend the interim instream flow standard for up to 8 gallons per minute for Peleau Stream at TMK: 3-1-003:002 for an agricultural stream diversion. The stream channel alteration and stream diversion works permits shall be valid for two years and subject to the standard conditions for stream diversion on Exhibit 6. The amendment to the interim instream flow standard shall be subject to the standard interim instream flow standard conditions in Exhibit 7, and the following special condition:

“The applicant shall not rear exotic fishes in the reservoir, unless the petitioner has written concurrence from the Division of Aquatic Resources.”

TESTIMONY BY APPLICANT:

Mr. Algirdas Vebeliunas stated that when he acquired the land, he had no idea that he needed a permit, but once he found out, he went through the permit process. Mr. Vebeliunas also stated that there was no indication on the deed or other papers that the taking of water from the stream needed a permit. There was no way of knowing.

Commissioner Anderson stated that our penalty policy needs to consider imposing a reasonable sanction. He also stated that possibly the Commission could look into furthering an outreach in education as it relates to land exchanges that involve water such as this so when someone purchases property that is adjacent to a stream they would be aware that a permit is needed for the taking of the water.

Chairperson Johns asked staff to look into contacting the Hawaii Association of Realtors or the Real Estate Commission to add to the disclosure statement that a permit is needed for taking of stream water.

MOTION: (RICHARDS/NISHIDA)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

3. Amendment of the Interim Instream Flow Standards for Alakahi, Kawainui, Koiawe and Waima Streams, Waipio Valley, Hawaii

PRESENTATION OF SUBMITTAL: Mr. Edwin Sakoda

RECOMMENDATIONS:

- 1) That the Commission amend the interim instream flow standard for Alakahi, Kawainui, Koiawe, and Waima Streams, based on additional information provided in section 4.2.5 of the WATERSHED PLAN AND FINAL ENVIRONMENTAL IMPACT STATEMENT, Lower Hamakua Ditch Watershed, Hawaii County, Hawaii.

The intake at Waima Stream is not operational and will not be reconstructed. The diversion structure in place when the Commission adopted the interim instream flow standard for the island of Hawaii, effective October 8, 1988, no longer diverts water due to lack of repair and maintenance; therefore, there is no longer any diversion of water from Waima Stream to the Lower Hamakua Ditch.

The diversion structures at Alakahi, Kawainui, and Koiawe Streams will be reconfigured to maintain at least 30 percent of the low flow in the stream with the alteration to the intake grating recommended by the U.S. Fish and Wildlife Service.

Kawainui Stream will be modified to provide operational control over the diversion rates for the Lower Hamakua Ditch.

- 2) That staff shall work with the NRCS, DOA, and other responsible agencies to ensure that the proper Commission permits are obtained.
- 3) That staff shall work with the Department of the Attorney General to ensure that all requirements of the Water code are met.
- 4) That this interim instream flow standard amendment shall become effective upon the completion of the modification as set forth in number 1 and compliance with number 2 and 3 above.

PUBLIC TESTIMONIES:

Dudley Kubo of Natural Resources Conservation Service (NRCS) stated that he was involved in the preparation of the EIS. There were many discussions with the U.S. Fish and Wildlife Service (USFWS) and other interested parties and they felt that some restoration would be beneficial to the aquatic population in the stream. The science to come up with a number hasn't been developed yet. The USFWS proposed a response that 30 percent restoration during low flows would satisfy them. Again, the science has not been developed yet.

Commissioner Anderson stated for the record that the proper order that is stated that Waima Stream diversion structure should remain intact even though no more diversions are planned at this time. He agreed with Chairperson Johns about the need to minimize wastage, understanding that 7 mgd is allowed but that efforts be made to look at minimizing wastage under the restored open ditch system.

Mr. Kubo stated that after a waterpower analysis was completed, all the flumes in the Lower Hamakua Ditch system were inspected. Most of the leakage was in the flume systems. At that time an estimated 20 mgd was leaking. The input was 30 mgd and the main weir would receive about 10 mgd. To reduce the leakage, a pipe system was looked into but it was three times more costly. One half of the flumes are anticipated to be fixed. There is also lots of evaporation in the open ditch systems, especially in the reservoirs and settling ponds. Mr. Kubo stated that he did not envision that there would be no loss or leakage in the ditch system. They felt that 3 mgd was a reasonable figure for leakage. He stated that in the EIS the cost would amount to \$20 million and the cost of the piping would estimate to \$10 million.

Commissioner Girald stated that no matter what time of the year it is, whether it is wet or dry, the 3 mgd leakage should be looked into. If nothing is done to mitigate this leakage, it will get worse. He felt that in previous discussions, the cost was a consideration.

Mr. Kubo added that only 25 out of the 50 flumes would be repaired. About 10 percent of the concrete lining would also be replaced. He stated that the project has attended to the major water loss areas. Also, a supervisory control data acquisition system is being implemented which will provide records of the different areas along the ditch to identify where leakages are occurring.

Mr. Kubo also added that currently the diversions that are on Alakahi, Koiawe and Kawainui Streams have been designed to take all of the water during low flows. During high flows the water will spill over the open grating and will proceed down the streams. The 30 percent release across the diversion will be affected by placing metal plates along 30 percent of the grating width. The water being directed at this time across the grating, 30 percent of that would flow over these metal plates and pass the intakes. For Kawainui Stream an actuated gate would be installed. Hopefully, a remote control actuation will be installed so that the water demand by the users can be projected and adjust the gate to only the amount of water that is needed. For Koiawe and Alakahi Streams, mechanical grating across the plates will be used.

Commissioner Anderson stated that he wants the Commission to be aware that everything practical is being done to minimize the loss in the system.

Chris Rathbun of the Waipio Community Association stated that it is excellent that the Commission is addressing this issue and feels that the interim instream flows should be amended. He stated that Waima clearly should be amended at this time and feels that it should be abandoned because it is not going to be restored. It should be formally abandoned and the interim instream flow standard for Waima should be amended. The Association feels that the large pumps, electrical transformers and pipes should be removed for everyone's safety and for the environment. He stated that according to the Code, when a stream diversion is abandoned all structures should be removed. The Association would also like to see the Commission order that the diversions be abandoned and that the diversions and all the appurtenances be removed from Waima Stream.

However, Mr. Rathbun also added that the Association doesn't feel that at this time the interim instream flow standards should be amended for Alakahi, Koiawe and Kawainui Streams. One of the reasons is that numerous studies are being done in the valley. These studies could provide scientific data that the Commission could use to make a more informed decision on how much water is necessary in the streams for aquatic resources and appurtenant rights. The Association feels that it would be appropriate to wait till the permits are issued for the Lower Hamakua Ditch watershed project so that new interim instream flow standards could be adopted at that time.

In conclusion, Mr. Rathbun stated that the Association would like the Commission to amend the interim instream flow standard for Waima Stream and that Kamehameha Schools should remove all diversion works, pumps, ladders, pipes and power lines. The interim instream flow standards for Alakahi, Koiawe and Kawainui Streams should also be amended at the same time the Commission considers the necessary permits for the Lower Hamakua Ditch watershed project.

Marjorie Ziegler of Earthjustice representing Waipio Valley Community Association stated that the Association feels that it would be premature and a big mistake for the Commission to move forward and amend the interim instream flow standard based on the numbers provided in the EIS. Ms. Ziegler also stated that the Association also wants the Commission to consider formally abandoning Waima Stream. She also felt that the appropriate studies

have not been made to set the instream flow standards, which was asked of them when they initially petitioned for amendments to Waipio Streams. She did not feel anything has changed so asked why the Commission is now considering staff's petition to amend. Therefore, the Association would also file for a contested case hearing if the Commission moves forward on this agenda item.

Chairperson Johns specifically asked Ms. Ziegler whether it was their position that they were opposing placing more water into the streams. Ms. Ziegler concurred with the statement.

Chairperson Johns asked for a motion to enter into executive session regarding the request for contested case hearing.

MOTION: (RICHARDS/GIRALD)

At 10:25 a.m. the Commission went into Executive Session.

The meeting was resumed at 10:50 a.m.

Deputy Director Linnel Nishioka stated that this was the first time that the Commission had initiated the petition to amend the interim instream flow. She recalled to the Commission that at the last meeting in Hamakua it was suggested that staff initiate the petition. At that meeting numerous positive reactions were received from the same testifiers who are now asking the Commission to reconsider. She stated that according to testimonies received at this meeting, now testifiers were saying that staff has not put in the proper deliberation, consideration, and time in considering this petition for amendment and that staff should take their time and slow it down, look at all of the studies, go back and reexamine these issues. Given those testimonies from the public, Deputy Director Nishioka requested to withdraw the submittal in its entirety.

On that note Chairperson Johns commented that he is uncertain that staff did not make sufficient efforts for the establishment of an interim instream flow standard. He was not certain that was the case. He did not concede that staff did not make sufficient efforts to come to this point.

Deputy Director Nishioka said that she concurred with Chairperson Johns' assessment but said she was merely summarizing the public testimony. She believed that the staff had done adequate work to make the recommendation and that the USFWS had supported the staff recommendation centered in the EIS.

Commissioner Anderson respectfully moved that the request of the staff be accepted.

Chairperson Johns asked staff to follow up on issues made by Mr. Rathbun with regard to potential health hazards on the allegedly abandoned facilities. If there are risks to the water quality or health, Chairperson Johns asked staff to follow up with the Department of Health and the landowners to act appropriately.

MOTION: (ANDERSON/RICHARDS)

To approve staff's request to withdraw the submittal

UNANIMOUSLY APPROVED.

4. Department of Agriculture's Request for Extension of Time on the Commission on Water Resource Management's Restoration Order for the Diversion (SCAP-HA-116) on Hakalaoa Stream and Complaints C98-07, C98-08, & Earth Justice Legal Defense Fund Petition for Declaratory Order on Lalakea Stream, Honokaa, Hawaii (TMK 4-8-03:06)

PRESENTATION OF SUBMITTAL: Mr. Roy Hardy

AMENDED RECOMMENDATIONS:

That the Commission:

1. Extend the August 30, 2000 deadline and issue an order to KSBE & DOA that the illegal diversion on Hakalaoa Stream above Hiilawe Falls (SCAP-HA-116) be removed no later than July October 1 December 31, 2001. ~~Maximum fines calculated from the August 30, 2000 deadline will be excused if the July October 1, 2001 deadline is met; otherwise maximum fines will be assessed for failing to remove the diversion from the August 30, 2000 deadline if the July October 1, 2001 deadline is not met.~~
2. Require DOA to continue to submit monthly written reports on the status of the Hakalaoa Falls restoration with respect to the 10/1/99 column of Table 1 that started on November 15, 1999.
3. Find DOA willfully failed to submit 4 of the 9 required monthly reports required by the Commission under action 3 of the October 13, 1999 Commission meeting.
4. ~~Fine DOA a total of \$1000 for the violation under recommendation 3, which results from the current minimum of \$250 per willful violation (see Exhibit 6). In lieu of the fine,~~ To address the violation in recommendation 3, DOA shall hold quarterly community meetings in Hamakua to apprise the community of the progress of the Hakalaoa Falls restoration project. These meetings shall start within two weeks of opening of the bid documents in October 2000 and reoccur every 3 months until the falls are restored. Failure to submit future written monthly reports, under recommendation 2., shall result in the consideration of additional penalties by the Commission.
5. Authorize the Chairperson to schedule a Commission meeting to accelerate deadlines identified with respect to recommendations 1 and 2 and/or require periodical interim presentations of the status of the falls fix at regularly scheduled Commission meetings.
6. ~~Find that the waste issue for the Lower Hamakua Ditch, under complaint C98-07, has been adequately addressed and no further action is necessary.~~

6. Require Department of Agriculture (DOA) to submit a plan to repair the Lower Hamakua Ditch system and to maintain and operate the ditch system with time frames associated with the implementation of that plan. DOA shall submit a report on the resources currently available and resources dedicated to this project. DOA shall submit to the Commission, no later than April 2001, a copy of their executive budget that would indicate the request for any funds needed to implement this plan.
7. Find that by December 1, 2000 KSBE must:
 - i. Provide detailed documentation proving the long-term nature of the Lalakea project. This can be achieved through acquisition of permits or letters of compliance with, but not limited to, the County permitting requirements, Division of Aquatic Resource aquacultural licensing, and a fully executed copy of the long-term lease. A fully executed copy of a short form of the lease is also acceptable.
 - ii. Provide detailed estimates of the water required for the project through written support from the Department of Agriculture, Aquaculture Development Program for water requirements.
 - iii. Obtain written support from the Division of Aquatic Resources of DLNR regarding the potential impacts of the fish that are being introduced in the Lalakea Reservoir or ponds.
 - iv. Install a metering device that is acceptable to Commission staff and data collected at a frequency acceptable to staff.
 - v. Provide monthly water use reports on forms provided by the Commission staff.
 - vi. KS and the Commission staff meet with the Division of Aquatic Resources regarding the potential impact of the fish that are being introduced.

Otherwise, the Lalakea Ditch will be determined abandoned by the Commission and applications for abandonment shall be made by KSBE no later than December 1, 2000. KSBE will be assessed maximum daily fines should 7 i though iv fail to materialize and applications for abandonment are not submitted by the December 1, 2000 deadline.

TESTIMONY BY APPLICANT:

Mr. James Nakatani, Director of the Department of Agriculture underestimated the complexity of the design-build process and should have asked for a more realistic completion date. The contractor requested a 60-day extension of the bid opening to October 20, 2000. Mr. Nakatani stated that only 1 contractor bid for the project because of the hazardous conditions and the complexity of the system.

Commissioner Anderson stated concerns about having enough staff maintaining the system as well as having sufficient resources. He asked Mr. Nakatani to somehow identify what additional resources might be necessary for this project and for a long-term maintenance for the system. Commissioner Anderson added that if it was possible the Commission could help to assure that those resources are provided.

Mr. Nakatani stated that he would look into the amount of monies that were appropriated to private contractors for maintenance of the ditch. He will submit a status of funding to properly carry out this project. He suggested that once the ditch is completed the maintenance could be less expensive if turned over to a private sector. He stated that he would do a projection on the long and short term on the resources to manage this project and the necessary personnel that are available.

Commissioner Girald thanked Mr. Nakatani for personally attending and providing testimony. He stated that everyone concerned is anxious to see the project move along. He is concerned about the request for 180-day extension and 10 months to complete the awarding of the contract. The deadlines have continually been extended. Commissioner Girald stated that maybe this is still not a realistic timeline because of the problems associated with working this area.

Commissioner Nishida again thanked Mr. Nakatani for personally attending and stated that part of his mission is to expand and develop new agriculture in Hawaii. He is hoping that as a part of project management that a more coordinated effort in communicating with the farmers be established so that their jobs can be expanded and have more effective use of the water with less wastage.

PUBLIC TESTIMONIES:

Manabu Tagomori of Kamehameha Schools (KS), Bob Rosehill, Land Manager in charge of small farms and aquaculture for KS for the Island of Hawaii, and Lawrence Balberde, Lessee, had no objections to staff's report but added comments to two issues: 1) tenancy of the lease and 2) the measurement of flow.

Mr. Rosehill gave a brief history of how Lalakea came into perspective.

Mr. Balberde stated that in earlier days, Lalakea had good potentials in aquaculture that met his specifications. He also presented his plan of developing Lalakea for aquaculture. He believes that his aquaculture project will contribute economically toward the revitalization of Hamakua.

Mr. Walker Sanders, President of Hamakua Coop was concerned about DOA's extension of time. He has been working for years with DOA on developing this irrigation district and would like the Commission to consider the time extension request. He concluded that a viable means would be to set up a metering system for the water and make it chargeable.

Mr. Chris Rathbun, speaking individually, spoke on several issues. He would like to see the Hakalaoa falls restored. He stated that he has no objections to the use of the water for Lalakea as long as there is no wastage and some water is allowed to flow over the falls.

Mr. Zack Gibson, farmer, stated that there are problems with the irrigation system. He would like to see the irrigation ditch be repaired and consider giving DOA the extension they need. He would also like to see the falls restored because the water does flow to the farms. There is leakage which he feels should be fixed.

Marjorie Ziegler testifying on behalf on Waipio Valley Community Association gave testimony only on the Lalakea complaint portion. Her suggestion for future staff submittals is that the Lalakea Ditch and the petition for a declaratory ruling be separate submittals. Ms. Ziegler stated that better communication should be established with the Commission and the Association. She stated that the Association is in support of staff's recommendation on Lalakea Ditch.

Pat Tummons of Environment Hawaii stated that Commission staff did not comply with Chapter 92 with regards to noticing the site visit to Waipio Valley and Lalakea Ditch. She requested that a second site visit be scheduled and notice mailed out.

Chairperson Johns asked Deputy Director to check into the notice issue raised by Ms. Tummons.

Chairperson Johns asked that in recommendation 7 on Lalakea Ditch, staff work with the Division of Aquatic Resources regarding the potential for either migration or any other species other than the catfish that are currently being proposed for the project.

Commissioner Anderson suggested that part of staff's recommendations be amended and added.

Commissioner Richards made a motion that staff's recommendation be amended.

MOTION: (RICHARDS/ANDERSON)

To amend staff's recommendation to the submittal.

UNANIMOUSLY APPROVED.

In recommendation no. 4, Commissioner Anderson stated that it would not be productive to fine another State agency and would not offer it as an alternative to keep the community informed. It is critical that the community be kept apprised of the progress of the project and suggests that the fine be eliminated. The quarterly meetings should start closer to the initiation of the project which he estimated to be April 2001.

Commissioner Anderson requested that the Department of Agriculture (DOA) prepare a plan to repair the Hamakua Ditch system and to maintain and operate the system with a time frame. Commissioner Anderson also requested a report on the resources currently available to implement this plan. It is critical that the Commission understand what the dilemma

DOA has and if there is need for additional resources, that those be identified. He suggested that the plan include the identification of "existing resources" and additional resources needed by DOA. Further, he stated that it might be helpful to have DOA submit to the Commission the additional resources needed along with justification that have been requested of the Legislature in the form of an Executive Budget Request. Commissioner Anderson is concerned that DOA will be short of staff and other resources they need to prepare the system and maintain the system.

Commissioner Anderson added that because Kamehameha School's (KS) tenants will benefit from this project and the community will thrive which will obviously increase the value of property, that KS might think of contributing financially to either development of the plan or to acquire some of the resources needed to make this system viable. He is hoping that KS would step forward to help make this project a success. Commissioner Anderson stated that this should be a separate recommendation as it relates to the plan and the need to identify resources.

Chairperson Johns summarized Commissioner Anderson's proposal that the fine in recommendation 4 be deleted, push back the starting date of the community meetings and adding another recommendation that dealt with the plan for completing the project and what resources would be available and a requirement that DOA seeks the necessary resources from the Legislature.

Commissioner Anderson stated that he would like to include his proposals in an order from the Commission as a condition for this extension.

Commissioner Girald made a motion to amend the motion for the staff recommendation in terms of dealing with the reality of the overall completion of this project. He recommended amending the July 1, 2001 deadline be extended to December 31, 2001. He stated that the Commission needed to look at the reality of the task that is beforehand. He would like to see the falls restored. At present, Commissioner Girald strongly and firmly believes also in a stable source of water.

Because of these time amendments, Chairperson Johns pointed out that the quarterly community meetings start after the bid documents have been received. These community meetings would then start in November 2000.

Commissioner Anderson suggested that the community meetings be triggered after DOA's receiving bid documents.

Commissioner Richards amended the original motion to fit into Commissioner Girald's motion that extends the deadline to December 31, 2001 and seconded Commissioner Girald's motion.

After discussions on the amendments, Commissioner Anderson amended his motion to include that the Commission require of DOA a plan to repair the Lower Hamakua Ditch System and to maintain and operate the system with time frames associated with that plan.

He also moved that a report be submitted to the Commission on resources that are currently available and resources dedicated to this project. He clarified that both the immediate repairs to the system as well as the operation and maintenance of the ditch be met. Commissioner Anderson further recommended that DOA submit to the Commission no later than April 2001 a copy of their executive budget request which includes a listing of their unmet needs of what they would require to implement this plan. Lastly, Commissioner Anderson added that the Commission delete the reference to the \$1000 fine which is offered in lieu of community meetings. He would like the DOA to hold quarterly meetings apprising the community on the progress of the project upon the opening of the bid for the project.

Chairperson Johns added to Commissioner Anderson's motion in recommendation no. 7 that KS and the Commission staff meet with the Division of Aquatic Resources regarding the potential impact of the fish that are being introduced.

Chairperson Johns described for the record the amendments: Recommendation no. 1 the first sentence will end with the date December 31, 2001, the second sentence deleted regarding the fines.

MOTION: (GIRALD/RICHARDS)

The Commission unanimously approved the amendments to recommendation no. 1.

The second amendment made by Commissioner Anderson was seconded by Commissioner Nishida.

MOTION: (ANDERSON/NISHIDA)

The Commission unanimously approved the amendments to recommendation no. 4.

MOTION: (RICHARDS/ANDERSON)

To approve the submittal as amended.

UNANIMOUSLY APPROVED AS AMENDED.

A recess was called at 1:00 pm. The Commission meeting was reconvened at 1:15 pm.

6. Waipi'o Taro Farmers Association Application for a Stream Channel Alteration Permit (SCAP-HA-310) Channel Excavation to Restore Streamflow Capacity, Wailoa River, Waipi'o Valley, Hamakua, Hawaii (TMK 4-9-10:37, 38, 54)

PRESENTATION OF SUBMITTAL: Mr. Edwin Sakoda

AMENDED RECOMMENDATIONS:

If the SMA exemption is received by the date of the CWRM meeting, then staff recommends:

That the Commission approve a stream channel alteration permit for the excavation of about 5000 cubic yards of gravel/cobble and emergent vegetation from a reach of Wailoa Stream, ~~Waipio~~ Waipio Valley, Hawaii, subject to the Commission's standard conditions in Exhibit 7 and the following special condition:

“The applicant shall prepare a Best Management Practice Plan (BMPP) to minimize water pollution during construction activities. The BMPP shall be acceptable to the Department of Health and the applicant shall follow the Best Management Practices during the excavation of the gravel bars.”

Mr. Sakoda made an amendment to Exhibit 8 Best Management Practice, page 4, mid page, first sentence. Change Station No. 3 to Station No. 2. Add sentence after no. 3 to read: If the turbidity reading at Station No. 3 exceeds the reading at Station No. 1, construction activity shall stop.

TESTIMONY BY APPLICANT:

Mr. Dudley Kubo of Natural Resources Conservation Service represented Morgan Toledo who was unable to attend this meeting. Mr. Kubo stated that after about three meetings, there was no objections to this permitted work. There were other concerns that were noted like the split in the river downstream and some erosion. Those issues will be addressed later.

TESTIMONIES:

Mr. Kia Fronda, President of the Waipio Community Valley Association, stated that he is concerned about erosion whenever work by bulldozers is done in Waipio Valley. It takes over ten years for the ground to settle. He also stated that he was unaware of these meetings. Mr. Fronda stated that more discussions are needed.

Chris Rathbun stated that he talked to the farmers that are affected by this work. The farmers had no idea that such work was being done and are opposed to the excavation. Within the taro farmers, there is dissention as whether or not bulldozing should proceed.

Commissioner Richards made a motion to defer this item for 30 days or until the next Commission meeting.

MOTION: (RICHARDS/GIRALD)

To defer for 30 days or until the next Commission meeting.

UNANIMOUSLY APPROVED TO DEFER.

9. Other Business Deputy Director Linnel Nishioka

A joint written report by Kamehameha Schools and Waiahole-Waikane Community Association was submitted. Because of time constraints, no oral report was given.

This meeting was adjourned at 1:30 pm.

Respectfully submitted,

FAITH F. CHING
Secretary

APPROVED AS SUBMITTED:

LINNEL T. NISHIOKA
Deputy Director